

**DURHAM, NORTH CAROLINA  
MONDAY, AUGUST 2, 1999  
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Absent: Council Members Langley and Larson.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, Mayor Pro Tempore Clement congratulated James Tabron who was recently elected President of the Public Housing Authority Directors' Association. Also, Deloise Rogers, Chair of the Durham Housing Authority Board, noted several accomplishments made by the Housing Authority under the leadership of James Tabron.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell recognized Michio Wagoner who gave an overview of the GIS Implementation System. Also, Police Chief Chambers made a presentation on the GIS System noting several concerns with property information being accessed by name particularly for police personnel. Captain Phil Wiggins spoke in support of the Police Chief's concerns.

**SUBJECT: POLICY DISCUSSION ON TYPE OF INFORMATION ON GIS SYSTEM**

To discuss policy for the type of information to be placed on the GIS System.

**MOTION** by Council Member Blyth seconded by Council Member Cox to direct the City Manager to develop a policy that would enable any citizen to "opt out" having their property information accessed by name through the GIS Web Site; and to convey to the County Manager the City Council's position [eliminate "search by name"] access on this issue was approved at 8:23 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

There were no priority items from the City Attorney and City Clerk.

The Mayor asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. No items were pulled from the Consent Agenda.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to approve the Consent Agenda as printed on the agenda was

approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**[CONSENT AGENDA]**

**SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY'S ANNUAL REPORT**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to receive a presentation by Mr. Robert Teer and Mr. Kenneth Gibbs about RDU activities and programs was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: RESOLUTION MEMORIALIZING KENNETH C. ROYALL, JR.**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a "Resolution Memorializing Kenneth C. Royall, Jr" was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: MAYOR'S NOMINATION TO DURHAM CIVIC CENTER AUTHORITY**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to approve the Mayor's nomination of Walter Craig Young to the Durham Civic Center Authority for a term to expire July 31, 2000 was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENTS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to reappoint Marianna Breyer, Andrea B. Manson and Gwendolyn M. Morris to the Human Relations Commission for terms to expire June 30, 2002; and

To direct the City Clerk to re-advertise for two non-minority vacancies on the Human Relations Commission for terms to expire June 30, 2002 was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council

Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: FISCAL YEAR 1999-2000 GOVERNOR'S CRIME COMMISSION GRANT  
FOR EL CENTRO HISPANO FY 1999-2000**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt the "City of Durham Grant Project Ordinance North Carolina Department of Crime Control and Public Safety Governor's Crime Commission - Grant for Project Chamos El Centro Hispano-FY 1999-2000" in the amount of \$34,292.99 was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: CONTRACT FOR SERVICES FOR SUPPLEMENTAL FIRE PROTECTION  
FOR BETHESDA VOLUNTEER FIRE DEPARTMENT, INCORPORATED -  
RIDGEWOOD, STONE ROAD AND PAGE PARK AREAS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to authorize the City Manager to execute a contract with Bethesda Volunteer Fire Department, Incorporated for supplemental fire protection to the Ridgewood, Stone Road and Page Park areas of the City was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: DISPOSITION OF CITY TRACT #1060 - 1402 SHAWNEE STREET**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to accept the offer of Dale Williams to purchase City Tract #1060, Tax Map 120-5-006, for \$4,000 and to authorize the Mayor to convey the property by a Non-Warranty Deed was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: DOWNTOWN LOAN POOL PROGRAM**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt an "Amended City of Durham Capital Project Ordinance Downtown Loan Pool" to extend the ending date from June 30, 2005 to June 30, 2010 (replaces Ordinance #10574); and

To amend the "Downtown Loan Pool Areas" boundaries (as established

by Council on September 18, 1995) to include the areas between Fayetteville/Umstead Streets and Fayetteville Street/Cornwallis Road was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: DOWNTOWN LOAN POOL PROGRAM - REQUEST FOR FUNDING -  
RENOVATION OF 600 FOSTER STREET**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to authorize the City Manager to execute the Non-Recourse Loan Participation Agreement with Branch Banking & Trust Company (BB&T) in an amount not to exceed \$137,500 to provide for participation by the City in the BB&T loan to Ellen Cassilly for the renovation of 600 Foster Street and to execute related loan closing documents and to make minor changes to the Non-Recourse Loan Participation Agreement and other related loan closing documents as are consistent with the loan terms and the Downtown Loan Pool Program requirements approved by the City Council was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: DOWNTOWN LOAN POOL PROGRAM - REQUEST FOR FUNDING -  
RENOVATION OF THE TEERMARK BUILDING, 212 WEST MAIN STREET**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to authorize the City Manager to execute the Non-Recourse Loan Participation Agreement with Mechanics and Farmers Bank in an amount not to exceed \$500,000 to provide for participation by the City in the Mechanics and Farmers loan to TeerMark Associates, LLC for the renovation of the TeerMark Building, 212 West Main Street and to execute related loan closing documents and to make minor changes to the Non-Recourse Loan Participation Agreement and other related loan closing documents as are consistent with the loan terms and the Downtown Loan Pool Program requirements approved by the City Council was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: RESOLUTION ESTABLISHING A REVISED ECONOMIC DEVELOPMENT  
INVESTMENT POLICY FOR THE CITY OF DURHAM**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a "Resolution Establishing a Revised Economic

Development Investment Policy for the City of Durham" was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: PRELIMINARY APPROVAL FOR SPECIAL NEEDS RENTAL HOUSING -  
1996 HOUSING BOND FUNDS - ACRA AND TROSA**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to approve preliminary allocations of 1996 Housing Bond funds in an aggregate amount not to exceed \$379,002 to ACRA (AIDS Community Residence Association) (\$179,002) and TROSA (Triangle Residential Options for Substance Abusers) (\$200,000), subject to negotiation of financing terms for the projects and development of loan documentation for City Council consideration at a later date was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: LEGISLATIVE UPDATE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to receive a legislative update from the Administration was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: RESOLUTION HONORING PETER SKILLERN**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a "Resolution Honoring Peter Skillern" was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: RESOLUTION MEMORIALIZING TYRONZA R. RICHMOND**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a "Resolution Memorializing Tyronza R. Richmond" was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and

Larson.

**SUBJECT: SITE PLAN APPROVAL - HEALTHY START ACADEMY**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to approve a major site plan for Healthy Start Academy, submitted by R. L. Horvath and Associates, Inc., consisting of a 59,370 square foot private school for 600 students, grades K-5 on a 9.75 acre tract zoned R-20 and located on the south side of Ellis Road, north of Alexander Drive and east of the East West Expressway (NC 147), Tax Map 641-01-002 was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: STREET CLOSING - EXCHANGE PLACE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a resolution 1) declaring the intent of the City Council to consider permanently closing 2.63± acres of Exchange Place and 2) setting a public hearing on Monday, August 16, 1999 to consider closing a 2.63± acre portion of Exchange Place was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: USE OF STAR WAREHOUSE PROPERTY BY THE COORDINATING COUNCIL FOR SENIOR CITIZENS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to reaffirm City Council action of June 16, 1997 concerning the donation of the Star Warehouse property to the Coordinating Council for Senior Citizens (as shown in the attached City Council minutes excerpt) was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: PROPOSED PROPERTY ACQUISITION OF PROPERTY FOR BETHESDA PARK SITE LOCATED ON CASH ROAD**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt the "City of Durham Capital Project Ordinance Park Land Acquisition in the Bethesda Area"; and

To approve the acquisition of 19.92± acres of land shown on Durham

County Tax Map 643-02-023 and 023C on Cash Road, property of Trenis S. Cash for \$15,000 per acre (contingent upon approval of the Capital Project Ordinance mentioned above) was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: BICYCLE MASTER PLAN AND PEDESTRIAN CONCERNS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to receive a report from the Administration regarding the Bicycle Master Plan and pedestrian concerns was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: CORRECTION OF ERRORS ON ASSESSMENT ROLLS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt a "Resolution for the Correction of an Error in the Assessment Roll for Sewer Main on Chapel Hill Road from New Mt. Moriah Road to East Property Line of Tax Map 483-1-11A as Previously Confirmed on March 16, 1998" to give full relief of an assessment erroneously levied against property of John J. and Rebecca L. Henner, described as 5301 Chapel Hill Road, Tax Map 480-1-5 (frontage fee requirements previously met); and

To adopt a "Resolution for the Correction of an Error in the Assessment Roll for Sewer Main on Chapel Hill Road from East Property Line of Tax Map 238B-2-17 to West Property Line of Tax Map 252-3-21 as Previously Confirmed on March 16, 1998" to give full relief of assessments erroneously levied against property of The Valley Homeowners Association, Inc., described as Chapel Hill Road, Tax Map 238B-1-52 and property of Lucy P. Ferrell described as 3611 Chapel Hill Road, Tax Map 252-3-19 (frontage fee requirements previously met) was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: PROPOSED ORDINANCE GOVERNING THE USE OF LASER DEVICES**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to receive a report from the Police Department concerning the proposed ordinance governing the use of laser devices was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and

Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: RESOLUTION MEMORIALIZING MR. LUTHER M. HOLMAN, SR.**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to direct the City Clerk to draft a resolution memorializing Mr. Luther M. Holman, Sr. was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: HANDICAP PARKING - DACIAN AVENUE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt an ordinance to establish handicap parking on the north side of Dacian Avenue in the area beginning at a point 50 feet east of the east curb line of N. Gregson Street, if extended, and extending for a distance of 25 feet eastwardly was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: HANDICAP PARKING - MASONDALE AVENUE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt an ordinance to establish handicap parking on the south side of Masondale Avenue in the area beginning at a point 400 feet west of the west curb line of Pekoe Street, if extended, and extending for a distance of 25 feet westwardly was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - LOCHN'ORA PARKWAY**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt an ordinance authorizing a speed limit of 25 mph on Lochn'ora Parkway beginning at the east curb line of Erwin Road, if extended, and extending eastward to end of City maintenance was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.



**SUBJECT: STOP SIGN - GAITHERS POINTE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

- a. Gaithers Pointe Drive at South Roxboro Street, northwest corner;
- b. Tapestry Terrace at Gaithers Pointe Drive, southeast corner;
- c. Conklin Drive at Gaithers Pointe Drive, southeast corner; and
- d. Conklin Drive at Tapestry Terrace, northwest corner.

**SUBJECT: SETTING PUBLIC HEARINGS FOR CONFIRMATION OF CERTAIN ASSESSMENT ROLLS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to adopt resolution setting public hearings on Monday, August 16, 1999 for confirmation of the following Assessment Rolls was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

- a. **Sewer Main - Oakview Street** from Pennock Road to west property line Tax Map 636-8-15;
- b. **Water Main - Oakview Street** from Pennock Road to west property line Tax Map 636-8-15; and
- c. **Sewer Main - Cheek Road** from Cheek Road Outfall to Harvest Street.

**SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Griffin to approve the official minutes of the June 21, 1999 regular City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

[GENERAL BUSINESS AGENDA]

**Note:** The Administration requests that the public hearings for Items 1 - 7 be continued until the August 16, 1999 City Council Meeting to allow for the required legal advertisement.

[PUBLIC HEARINGS]

**SUBJECT: Water Main - North Woodrest Street** from Rochelle Street to South Property Line of Tax Map 378-2-4

To adopt a resolution confirming the assessment roll for water main on North Woodrest Street from Rochelle Street to south property line of Tax Map 378-2-4.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Water Main - Clayton Road** from N.C. 98 to Judy Avenue

To adopt a resolution confirming the assessment roll for water main on Clayton Road from N.C. 98 to Judy Avenue.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Sewer Main - Kinloch Drive** from Kinloch Drive Outfall to Latta Road and **Latta Road** from Kinloch Drive to Womack Drive

To adopt a resolution confirming the assessment roll for sewer main on Kinloch Drive from Kinloch Drive Outfall to Latta Road and Latta Road from Kinloch Drive to Womack Drive.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Sewer Main - Holloway Street** from Adams Street to Woodcrest Street

To adopt a resolution confirming the assessment roll for sewer main on Holloway Street from Adams Street to Woodcrest Street.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Sewer Main - Edgerton Drive** from Ed Cook Road to West Property Line of Tax Map 566-2-1

To adopt a resolution confirming the assessment roll for sewer main on Edgerton Drive from Ed Cook Road to west property line of Tax Map 566-2-1.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Sewer Main - East End Avenue** from West Property Line Tax Map 372, Block 1, Parcel 1A to East Property Line Tax Map 372, Block 1, Parcel 1A

To adopt a resolution confirming the assessment roll for sewer main on East End Avenue from west property line Tax Map 372, Block 1, Parcel 1A to east property line Tax Map 372, Block 1, Parcel 1A.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: Sewer Main - East Rockway Street** from the South Property Line of Tax Map 470-2-5 to the South Property Line of Tax Map 740-1-7 under the Enabling Act Authority

To adopt a resolution ordering sewer main improvements on East Rockway Street from the south property line of Tax Map 470-2-5 to the south property line of Tax Map 740-1-7 under the Enabling Act Authority.

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to continue the public hearing until the August 16, 1999 City Council Meeting was approved at 8:24 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

At this time, the Mayor asked that comments from the citizens be heard on the Resolution for a Moratorium on Executions.

**[OTHER MATTERS]**

**SUBJECT: RESOLUTION FOR A MORATORIUM ON EXECUTIONS**

To adopt the attached "Resolution for a Moratorium on Executions".

The following citizens spoke in favor of the Resolution for A Moratorium on Executions: Geoffrey Mock; Jim Coleman; Lao Rubert; Elizabeth Grant; and Reverend Mel Williams.

The following citizen spoke in opposition to the Resolution: G. R. Quinn.

A motion was made by Mayor Pro Tempore Clement to adopt the Resolution for a Moratorium on Executions. This motion was seconded by Council Member Blyth.

Several Council Members spoke in support of the Resolution.

Council Member Cox voiced concern with the process [the manner in which the item was placed on the agenda]. He stated this item should be referred to the Legislative Committee for consideration as agreed to during earlier conversations.

Council Member Cox made a substitute motion to refer this item to the Legislative Committee for consideration. This motion was seconded by Council Member Griffin.

At this time, the Mayor called for the vote on the substitute motion made by Council Member Cox.

**SUBSTITUTE MOTION** by Council Member Cox seconded by Council Member Griffin to refer this matter to the Legislative Subcommittee for consideration **FAILED** at 9:01 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Burnette, Cox and Griffin.

Noes: Mayor Pro Tempore Clement and Council Members Blyth, Brown, Engelhard, Jacobs, McKissick and Miller. Absent: Council Members Langley and Larson.

Mayor Tennyson read the following statement for the record:

I support fair enforcement of all laws. I oppose racial and economic discrimination. I am troubled by the stories that seem to emerge daily about the latest discovery of an innocent person on death row.

Yet, I will not support the resolution proposed for a moratorium on the death penalty. This resolution is written in absolute sincerity by people who reject the death penalty as barbaric, unjust, and beyond the range of acceptable actions by the state. I understand their position and admire their diligent, committed effort.

When Mel Williams first contacted me about this issue, I wrote to him expressing some thoughts on the matter:

My own opinions on this matter have gone through a number of phases during my life and, the older I get, the more aware I am that the last thought has not been thought on any issue. The common argument that executions perpetuate a climate of violence is not; however, a concept with which I agree. I subscribe to the theory that there are rights which accrue to the entirety--burdened, limited, prescribed, proscribed, and delineated by due process--that are never in the range of possible actions by any individual, or self selected subset of the society.

You comment that executions send the message that killing is OK. That may be the message that is received by some small part of society, but it is not the message that is being sent. It is not the message that I believe the overwhelming majority of those who learn of an execution draw from it.

Mel, for me, the death penalty represents the absolute statement by society that there are some crimes for which no other punishment sufficiency represents the abhorrence society feels. It is not a matter for me of deterrence. There is certainly no portion of the death penalty that repairs the damage that was done by the perpetrator.

For some, that level of abhorrence can be expressed by sentences of life without possibility of parole. At this point in the evolution of my thoughts on the topic, I am not in that group.

Calling for a moratorium may be worthy of consideration if the specific condition that will exist when the moratorium is lifted can be identified. If that condition is the abolition of the death penalty, I have already made clear that I would not be supportive. If the condition is some series of safeguards that will reduce the chance that innocent people will be convicted, the concept is certainly worthy and I will give it my close attention.

As I understand it, the General Assembly has convened a study of the issues raised in this resolution and that is appropriate. If a motion is made to support that study and to urge allowance of sufficient resources to allow for a successful study, I would support such a motion.

I appreciate the thoughtful communications I have received from many citizens of Durham and other communities on this matter. I respect their seriousness and do not seek to diminish the level of their concern about the obvious flaws in past administration of the death penalty. For me, it would, however, be hypocritical to vote for this resolution and I will not do so.

Mayor Tennyson called for the vote on the original motion.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Blyth to adopt the attached Resolution for a Moratorium on Executions was approved at 9:05 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Jacobs, McKissick and Miller. Noes: Mayor Tennyson and Council Members Burnette and Griffin. Absent: Council Members Langley and Larson.

#### **[PUBLIC HEARINGS CONTINUED]**

#### **SUBJECT: AMENDMENTS TO CITIZEN PARTICIPATION PLAN**

To receive citizens' comments on the proposed changes to the Citizen Participation Plan.

To approve the proposed changes to the Citizen Participation Plan as listed in the attachment and to adopt the Plan, as amended.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations the public hearing was declared closed.

**MOTION** by Council Member Brown seconded by Council Member Miller to receive citizens' comments on the proposed changes to the Citizen Participation Plan; and

To approve the proposed changes to the Citizen Participation Plan as listed in the attachment and to adopt the Plan, as amended was approved at 9:06 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

#### **SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) REPROGRAMMING**

To receive citizens' comments regarding the reprogramming of Community Development Block Grant funds.

To approve the reprogramming as shown in the Attachment.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

Council Member McKissick voiced concern with the total amount of funds be earmarked for the East Main Street area [\$500,000] and no funds being allocated to Old Five Points in North Durham. Also, he raised concern that no specific plan was developed for the expenditure of these funds.

A motion was made by Council Member McKissick to approve reprogramming of funds with \$400,000 allocated to East Main Street area and \$100,000 to Old Five Points area in North Durham. This motion was seconded by Council Member Cox.

Several Council Members spoke in support of the manager's recommendation. It was noted if the funds are not expended prior to April 30, 2000 the city would lose the funds and possibly lose future funding.

A substitute motion was made by Council Member Miller to approve the item as printed on the agenda. This motion was seconded by Mayor Pro Tempore Clement.

Discussion was held on the allocation to Community Shelter for Hope in the amount of \$10,000.

**SUBSTITUTE MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to receive citizens' comments regarding the reprogramming of Community Development Block Grant funds; and

To approve the reprogramming as shown in the attachment [manager's recommendation] was approved at 9:21 p.m. by the following vote:  
Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, and Miller. Noes: Council Member McKissick. Absent: Council Members Langley and Larson.

**SUBJECT: ZONING MATTER CASE P99-24, CROSLAND, 5000, 5016, AND 5110  
OLD CHAPEL HILL ROAD BETWEEN WATKINS ROAD AND MT. MORIAH  
ROAD**

Case: P99-24

Applicant: Crosland

Location: 20.21-acre site at 5000, 5016, and 5110 Old Chapel Hill Road between Watkins Road and Mt. Moriah Road, identified as Tax

Map 483, Block 1, Lot 11, 12, and 12A

Request: Rezoning from R-20 (Residential 20 District); (F/J-B, MTC) to RM-12(D) (Apartment Residential at 12 Units per Acre with a Development Plan); (F/J-B, MTC)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; (F/J-B, MTC) and placing same in and establishing same as RM-12(D); (F/J-B, MTC).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

The Mayor opened the public hearing.

**MOTION** by Council Member Miller seconded by Council Member Engelhard to continue this rezoning case without further advertising until the August 16, 1999 City Council Meeting was approved at 9:21 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**SUBJECT: ZONING MATTER CASE P99-20, M. M. FOWLER, HIGHWAY 55 AND CARPENTER FLETCHER ROAD**

Case: P99-20

Applicant: M. M. Fowler

Location: This site is located at the northwest corner of the intersection of Highway 55 and Carpenter Fletcher Road (Tax Map 550, Block 3, Lot 13A)

Request: Rezoning from OI-2 (General Office and Institutional District) to GC(D) (General Commercial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and establishing same as GC(D).

Zoning Committee's Recommendation and Vote: Approval (4-3)

City Manager's Recommendation: Denial

Dick Hails, Interim City/County Planning Director, stated several references in the staff report note dedication of additional right-of-way and should not be interpreted as grounds for a zoning decision.

Mayor Tennyson opened the public hearing.



Stephanie Powell, representing the applicant, requested a deferral on this matter until the September 7, 1999 to allow the applicant to obtain the services of a petroleum expert.

A motion was made by Council Member McKissick to continue the public hearing on this zoning request without further advertisement until the September 7, 1999 City Council Meeting. This motion was seconded by Council Member Griffin.

Several Council Members stated they would like to hear the comments from the opponents who are present.

Council Member McKissick amended his motion to allow the opponents to speak on this zoning case.

A substitute motion was made by Council Member Blyth to table the motion made by Council Member McKissick. This motion was seconded by Council Member Engelhard.

At this time, the original motion and substitute motion were withdrawn.

The Mayor stated the public hearing is now open.

### **Proponents**

Stephanie Powell, representing the applicant, briefed the council on the zoning request, the location, and the buffer between the proposed project and the communities. Also, Ms. Powell stated that a convenient store does fit into the concept of a support neighborhood utilization of the property and the possibility of additional traffic on Highway 55 and Carpenter Fletcher Road would be limited.

### **Opponents**

Ronald Patterson, a resident of Bluestone Road, stated currently there are eight gas stations and convenient store combination facilities within 1.5 miles of the proposed site. Mr. Patterson requested council to deny this request to protect the environment and the image of the city.

Peter Schubert, a resident of Bluestone Road, noted the serious and considerable neighborhood opposition to this rezoning request for a gas station and convenient store. Also, Mr. Schubert stated a petition has been signed by 298 residents of the neighborhood opposing the request. He noted the site is located entirely within the 100 year floodplain of the Northeast Creek and the increase in traffic.

Pat Bocckino, representing CAUSE, spoke in opposition to the tremendous rezoning requests in Durham. Ms. Bocckino asked council to be selective and reject this rezoning.

Thad Howard, a resident of Vanguard Place, noted the applicant was

not interested in the neighborhood concerns/desires. He asked to deny the proposal this evening due to the wetland issues in the area.

Margaret Schubert, a resident of Bluestone Road, asked the council to deny Mr. Fowler's request for a deferral. She noted he has owned the property for thirty years and has ample time to prepare his case and come with creative solutions. Ms. Schubert asked council to deny the request.

Chris \_\_\_\_\_, a resident of Vanguard Place, spoke in opposition to the request.

Jane Ellen Simmons, a resident of Wedgewood Lane, spoke in opposition to the rezoning request. She asked the council to support the neighborhood.

Ann Gregory, a resident of Bluestone Road, spoke in opposition to the request. She noted several reasons why the neighborhood was opposed to having another gas station in the area.

#### **Rebuttal**

Stephanie Powell noted the highly buffered area and stated the proposal was not in the neighborhood. Ms. Powell informed council that she did have letters from individuals supporting the project. She stated there was consent to rezone the land to OI-2 when the city and county merged with the consideration that it would be supported if the applicant chose to do so. Ms. Powell noted the project is right for this intersection and Mr. Fowler was a long standing corporate citizen of Durham. Relative to deferring this case, Ms. Powell stated the applicant would like to have the opportunity to hire an environmental petroleum specialist to address this issue due to some hysteria and misunderstanding about the use of this property and how it would affect the floodplain.

City Attorney Henry Blinder reminded council that the applicant has made a request for rezoning to General Commercial with a development plan and not specifically for a gas station as such.

Mayor Pro Tempore Clement stated he supported the request to defer a decision on this matter until the September 7, 1999 City Council Meeting to allow the applicant to make available more information.

A motion was made by Mayor Pro Tempore Clement to continue the public hearing without further advertising until the September 7, 1999 City Council Meeting. This motion was seconded by Council Member Griffin.

Council Member McKissick stated he would support the motion to defer due to the fact this was the first time the rezoning appeared on the agenda.

Council Member Cox stated normally when he supported a deferral it is because of additional information needed to help him make a

decision. He noted, at the present, he did not know of any new information he needed to be aware of to help him make a decision.

A substitute motion was made by Council Member Cox to approve the rezoning request. Council Member Cox stated he would be voting against the rezoning. This motion was seconded by Council Member Miller.

Council Member Miller also stated enough information has been submitted on this item to make a decision this evening. He stated his decision is based on whether or not this is in conformance with the small area plan.

Council Member Blyth stated the area is very environmentally sensitive, a floodplain. She stated it should not have been grandfathered when the Resource Protection Ordinance amendments were recently passed for the reasons being discussed this evening.

Council Member Jacobs asked if the administration received testimony from a petroleum expert.

Dick Hail, Interim City/County Planning Director, stated they have not had expert testimony on this item. He noted they have reviewed the request as a general land use point of view.

Council Member Jacobs asked the applicant if he communicated with the surrounding neighborhoods.

Lee Barnes stated he met with the President of the Carpenter Fletcher Neighborhood Association and talked with persons on the telephone about the project.

Stephanie Powell stated one of the reasons they requested a deferral to allow them to speak with more of the residents and to have input from professionals as well.

Jane Ellen Simmons, one of the residents, noted the increase in the frequency, extent and duration of flooding on the proposed site.

Dick Hail, Interim City/County Planning Director, stated a few years ago revised floodplain maps were available on different creeks in the city/county. He noted on Northeast Creek at Carpenter Fletcher Road the floodplain elevation rose about five feet.

Again, City Attorney Blinder reminded the Council the request was to rezone property to General Commercial with a development plan and Council should consider all the uses permitted in that zone.

**SUBSTITUTE MOTION** by Council Member Cox seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and

establishing same as GC(D) **FAILED** at 10:19 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Member Griffin. Noes: Mayor Tennyson and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**[EXCUSE COUNCIL MEMBER BROWN]**

**MOTION** by Council Member Blyth seconded by Council Member Cox to excuse Council Member Brown from the meeting was approved at 10:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Absent: Council Members Langley and Larson.

**[OTHER MATTERS]**

**SUBJECT: SEVEN STARS CHARITABLE COMBINED CAMPAIGN POLICY**

**MOTION** by Council Member Miller seconded by Mayor Pro Tempore Clement to adopt the proposed Employee Charitable Combined Campaign Policy was approved at 10:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Excused Absence: Council Member Brown. Absent: Council Members Langley and Larson.

**SUBJECT: PRELIMINARY APPROVAL - REBUILD DURHAM, INC. HOME PROJECT**

To give preliminary approval to an allocation of FY99-00 HOME funds to REBUILD Durham, Inc. in the total amount of up to \$507,700 to provide partial funding for the acquisition/rehabilitation and permanent financing of 12 rental housing units for permanent rental housing for families with average incomes at or below 60% median income, and including a CHDO Operating Grant of up to \$47,700, subject to receipt by the City from HUD of the FY 99-00 HOME Program Allocation.

**Note: At the Committee-of-the-Whole Meeting, this item was referred to the August 5, 1999 Finance Committee.**

**SUBJECT: 1999-2000 BEER AND WINE PRIVILEGE LICENSES**

**MOTION** by Council Member Miller seconded by Council Member Jacobs to approve the issuance of Beer and Wine Privilege Licenses to the establishments listed in the Attachment was approved at 10:21 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: Mayor Pro Tempore Clement. Excused Absence: Council Member Brown. Absent: Council Members Langley and

Larson.

**MOTION** by Council Member Miller seconded by Council Member Cox to receive a report from the Administration on the Beer and Wine Privilege License Applications of concern to the Police Department was approved at 10:21 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, McKissick and Miller. Noes: None. Excused Absence: Council Member Brown. Absent: Council Members Langley and Larson.

**Note: See Attachment #1 for Beer and Wine Privilege Licenses**

**SUBJECT: REQUEST FOR APPROVAL OF FIREWORKS DISPLAY - DUKE UNIVERSITY, EMPLOYEE AND FAMILY PROGRAMS**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Miller to approve a request by Duke University, Employee and Family Programs, for the display of fireworks on Tuesday, August 17, 1999 around 9:00 p.m. in the lot behind the Perkins Library on Duke's west campus was approved at 10:21 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs and McKissick. Noes: Council Members Engelhard and Miller. Excused Absence: Council Member Brown. Absent: Council Members Langley and Larson.

There being no further business to come before the Council, the meeting was adjourned at 10:21 p.m.

D. Ann Gray, CMC  
Deputy City Clerk

Margaret M. Bowers, CMC  
City Clerk